

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
TRAVIS JACKSON, KENNETH GILMORE,
Plaintiffs,
-against-

NOT FOR PUBLICATION
MEMORANDUM &
ORDER
05-CV-4187 (CBA)

GEORGE PATAKI, Governor of the State of New York; ROBERT DENNISON, Chairman of the New York State Division of Parole; VANESSA CLARKE; MARIETTA GAILORE; WILLIAM WALTER SMITH, JR; VERNON MANLEY; PATRICIA TAPPAN; DEBRA J. LOOMIS; ROSLYN BLOCK; GEORGE JOHNSON; WILLIAM CROWE; EDWARD MEVEC; GINNO NITTI; THOMAS GRANT; LIVIO LAZZARI; JOHN CAPACCI; IRENE PLATT; and GLENN GOORD, Commissioner for the New York State Department of Correctional Services,

Defendants.

-----X
AMON, United States District Judge:

Travis Jackson and Kenneth Gilmore, who are African-American, filed this action alleging that they were denied parole pursuant to the New York State Division of Parole's policy of denying parole to African-American and Latino prisoners on the basis of their race. On January 20, 2006, the Court denied all of the plaintiffs' claims except for their racial discrimination claims, which they brought under 42 U.S.C. § 1983. On March 27, 2007, the Court dismissed the plaintiff's section 1983 claims against several of the named defendants. Finally, on July 31, 2009, the Court granted the remaining defendants' motion for summary judgment with respect to the plaintiffs' claims for damages and declaratory relief, holding that Heck v. Humphrey, 512 U.S. 477 (1994), barred the section 1983 claims. (ECF No. 102.) The Court also granted the defendants' motion for summary judgment with respect to the plaintiffs'

claims for prospective injunctive relief, but it permitted Jackson 30 days to refile so that he could, if he were able to, plead facts supporting his allegation that the offices of the Parole Chairman and Commissioners and the governor maintained an ongoing policy of unconstitutionally denying parole to African-American and Latino prisoners. (*Id.* at 19.) Jackson never refiled. Instead, he filed a notice of appeal on August 7, 2009. (ECF No. 103.) On March 8, 2010, the U.S. Court of Appeals for the Second Circuit dismissed Jackson's appeal because it lacked an arguable basis in law or fact. (ECF No. 109.) The mandate issued on April 1, 2010. (*Id.*) Jackson has not filed an amended complaint, or any other papers, with this Court since the mandate issued.

In the light of the foregoing, the Court enters judgment against Jackson on his remaining claim for prospective injunctive relief. The Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Brooklyn, New York
September _____, 2010

S/ Hon. Carol Bagley Amon
Hon. Carol Bagley Amon
United States District Judge